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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: October 6, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

Agenda Item No. 8(F)(7)

From: Carlos A. Gimenez
Mayor

Subject: Recommendation for Approval to Waive the Competitive Bidding Process and Award a Bid Waiver Revenue Generating Contract: Accounts Payable Payment Card and Debit Card Programs

Resolution No. R-835-15

Recommendation

It is recommended that the Board of County Commissioners (Board) waive competitive bidding procedures for the purchase of goods and services pursuant to Section 5.03(D) of the Miami-Dade County Home Rule Charter and Sections 2-8.1 of the Code of Miami-Dade County (Code), and the bid protest procedures of Sections 2-8.3 and 2-8.4 of the Code, and award Wells Fargo Bank, N.A. (Wells Fargo) *Contract No. RFP821, Accounts Payable Payment Card and Debit Card Programs* (EPay Program) for the Finance Department.

The EPay Program provides the County with an opportunity to obtain cash rebates from Wells Fargo by paying its vendors through credit card technology. Vendors that voluntary enroll in the EPay Program benefit from expedited payments, which improves their cash flow. The actual amount of money that the County can earn is based upon the number of vendors that sign up and the amount of payables processed through this program. Therefore, the more vendors that utilize this program, the higher the revenue to the County. Vendors enrolling in the program will be assessed the usual credit card merchant industry fees.

Five (5) proposals were received in response to the solicitation: one (1) was found non-responsive by the County Attorney's Office and four (4) were evaluated by the Evaluation/Selection Committee. The two (2) highest ranked proposers, Bank of America, N.A. (Bank of America) and Wells Fargo, were invited to oral presentations. Following oral presentations, the Evaluation/Selection Committee recommended that negotiations begin with Bank of America, the highest ranked proposer. Fourteen (14) negotiation sessions were held with Bank of America and, due to significant exceptions to the County's terms and conditions requested by Bank of America, negotiations were terminated. Negotiations were subsequently initiated with Wells Fargo, the second ranked proposer. The firm presented similar exceptions, and, therefore, negotiations were also terminated. No other qualified proposers remained. Attachment 1 to this transmittal memorandum provides a history of the Evaluation/Selection Committee's recommendation and negotiations.

In lieu of rejecting all proposals and due to the opportunity to generate revenue to support County operations, staff resumed negotiations with the two (2) highest ranked proposers to consider the following modifications to the County's contract terms and conditions:

1. reduce the revenue under the contract if there is an instance where the federal government and/or the credit card merchants' action(s) lead to a materially adverse financial impact on providing these services; and
2. alter the liability clause to permit the inclusion of the word "negligent" to indemnify the County for all matters if it were negligent in its performance.

After several meetings, Bank of America advised staff that unless the County was willing to negotiate on additional terms beyond those mentioned above it did not see the need to carry on any further negotiations. While there were a number of terms that were still being negotiated, Bank of America could not agree to include the County's requirements under Implementing Order No. 3-9, Accounts Receivable Adjustments, in any agreement. More specifically, Implementing Order No. 3-9 requires the County to retain a payment due to the vendor under any contract if money is owed to the County by the vendor. Bank of America was advised that the County could not consider waiving this requirement. Negotiations with Bank of America were terminated as a result and staff resumed negotiations with Wells Fargo. Wells Fargo agreed to the contract with the modifications stated above and did not require the County to seek further waiver of County requirements.

It is therefore recommended the Board waive the competitive bidding process and award this revenue generating contract to Wells Fargo.

Although initially solicited through a competitive Request for Proposals (RFP) process, a bid waiver is requested because the two (2) highest ranked proposers, Bank of America and Wells Fargo, could not accept required proposal terms. While failure to meet the required proposal terms requires a bid waiver, the competitive process was nevertheless preserved as both proposers selected for negotiations were subject to the same defect.

Scope
The impact of this item is countywide in nature.

Fiscal Impact and Funding Source
The estimated revenue to be generated by the County for the initial five-year term is $2,000,000. This amount includes estimated annual revenue of $380,000 (by way of rebates) and a one-time, non-refundable $100,000 sign-on bonus presented to the County within 30 days following the execution of this agreement. If the County exercises the single three-year option to renew term, the cumulative revenue is projected to be $3,140,000. Additionally, the first year that the spend volume reaches $50 million, a one-time bonus of $50,000 will be paid to the County.

The projected revenues are based on an analysis performed by Wells Fargo and reviewed by County staff in the Finance Department. The analysis included a review of County vendors, the dollars spent, the number of County vendors already enrolled in Wells Fargo's program and other historical data, which resulted in a projected spend volume under the program of $26 million per year.

Separately, it is important to note that the County's Accounts Payable Module will require modifications to implement this payment method, which is an estimated $100,000 one-time cost. Additionally, an annual estimated recurring expense of $50,000 is anticipated to assist vendors, process files, and reconcile and issue payments to vendors. The sign-on bonus and rebates will be used to cover these expenses.

Track Record/Monitor
Andrew Zawoyski, CPPO for the Internal Services Department, is the Procurement Contracting Manager. Sandra Bridgeman will manage the contract for the Finance Department.

Delegated Authority
If this item is approved, the County Mayor or County Mayor's designee will have the authority to exercise all provisions of the contract, Section 2-8.1 of the County Code and Implementing Order 3-38.

Vendor Recommended for Award

An RFP was issued under full and open competition on March 28, 2013. Five (5) proposals were received in response to the solicitation. After negotiations, as described above, Wells Fargo is being recommended for award.

Awardee	Address	Principal
Wells Fargo Bank, N.A.	420 Montgomery Street San Francisco, CA	John G. Stumpf

Vendors Not Recommended for Award

Proposer	Reason for Not Recommending
Bank of America, N.A.	Termination of negotiations
Citibank, N.A.	Evaluation Scores/Ranking – was not selected to participate in oral presentations
J.P. Morgan Chase Bank, N.A.	Evaluation Scores/Ranking – was not selected to participate in oral presentations
PNC Bank, N.A.	Vendor deemed non-responsive by the County Attorney's Office as it provided a legal statement with its proposal that affirmatively disavows any offer to the County and denies the County of any assurance that if its offer were accepted a contract would be entered into. County Attorney opinion is attached.

Due Diligence

Pursuant to Resolution R-187-12, due diligence was conducted in accordance with the Internal Services Department's Procurement Guidelines to determine contractor responsibility, including verifying corporate status and that there are no performance or compliance issues. The lists that were referenced include convicted vendors, debarred vendors, delinquent contractors, suspended vendors and federal excluded parties. There were no adverse findings relating to vendor responsibility.

Applicable Ordinances and Contract Measures

- The two (2) percent User Access Program provision does not apply as this is a revenue generating contract.
- The Local Preference Ordinance was applied but did not impact the outcome.
- Small Business Enterprise measures do not apply as this is a revenue generating contract.
- The Living Wage Ordinance does not apply.

Attachments

Edward Marquez
Deputy Mayor

Index of Attachment 1 –
History of Evaluation/Selection Committee's Recommendation and Negotiations

Exhibit 1 – Request to Terminate Negotiations with Second Ranked Proposer

Exhibit 2 – Request to Negotiate with Second Ranked Proposer

Exhibit 3 – Report of Evaluation/Selection Committee

Exhibit 4 – Request for Responsiveness Determination

Exhibit 5 – Responsiveness of Proposal

Exhibit 6 – Evaluation/Selection Committee Results Memo

Exhibit 7 – Outstanding Matters Pertaining to Base Agreement

Exhibit 1

Memorandum

MIAMI-DADE COUNTY

Date: July 15, 2014

To: Lester Sola
Director
Internal Services Department

Thru: Miriam Singer, CPPO
Assistant Director
Internal Services Department

From: Andrew Zawoyski, CPPO
Contracting Officer
Chairperson, Negotiations Committee

Subject: Request to terminate Negotiations with Second Ranked Proposer - RFP No. 821 ePayable Payment Card and Debit Card Programs

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The County issued a solicitation (RFP) to obtain proposals from qualified firms to provide (a) an accounts payable payment card program ("ePayables" Payment Card Program), with the required technology and services to implement an alternative payment method that uses credit card technology to make electronic payments (the County currently pays via check and ACH/electronic funds transfer); and (b) to provide a debit card program to streamline check payment process for employees and garnishment recipients; and potentially to provide services for other similar County programs that may require such services.

The Evaluation/Selection Committee completed the evaluation of proposals submitted in response to the RFP following the guidelines published in the solicitation with a recommendation to negotiate with the highest ranked proposer Bank of America ("BOA")

Negotiations with BOA began on September 18, 2013. Following 14 negotiations sessions and as further detailed in attached memo dated May 1, 2014, the Negotiations Committee (Committee) terminated negotiations with the highest ranked proposer and began negotiations with the second ranked proposer.

The Committee requested that Wells Fargo address the major issues ("opt out" of contract prior to five year period and option to renew for 3 years, and limitation of liability on indemnification provision) up front, as discussed with the highest ranked proposer, since unless WF was agreeable to the terms which caused termination of negotiations with BOA, there was no reason to deal with other matters. WF agreed to address this matter upfront. After meeting with its senior management, WF advised the County that they could not agree to the five year agreement without negotiating the commission to the County downward from what was presented in the proposal. The Committee advised that it was in the position to accept a better return to the County but not one which would be less. Additionally, WF advised that they request that the County include the indemnification provision previously approved by the County under a separate contract. Due to WF inability to agree to a five year contract as stated above, this matter was not discussed further.

The Committee met on July 3, 2014 and recommends that negotiations terminate with the second highest ranked proposer. No other proposers remain in the zone of consideration, as only BOA and WF were selected for oral presentations. While the following standard approach would request that all proposals be rejected and a new RFP be solicited, there is the need to get a contract in place for these services as this is a revenue generating opportunity and the County stands to obtain needed revenues as quickly as possible. As such, the Committee recommends that consideration be given to re-establishing negotiations with BOA, in an attempt to reach an acceptable agreement. The main concessions which will be presented to BOA will include an "out" clause, or renegotiations, in the event regulatory parties outside BOA (i.e. federal government and/or credit card merchants) make such

changes as to disallow BOA from participation and/or being able to make sufficient revenues to share with the County. This transfer of risk will be carefully considered throughout the negotiations process before a recommendation to award is made.

Additionally, in lieu of the cap suggested by BOA, the County will offer indemnification language consistent with the County's current banking contracts. This language offers some protection to the bank but still holds the County harmless due to the bank's negligence. If BOA cannot agree to these or any other terms and conditions, the Committee will terminate negotiations with BOA, and immediately commence re-negotiations with WF, as they were more agreeable to the County's other provisions. This approach is requested in order to move the project forward.

As previously presented, attached is presentation document for reference (the recommended process is further detailed in "Proposed Process" starting on bottom half of page 2). As stated therein, any such agreement, as suggested by the CAO will need to be presented to the Board as a waiver of the competitive process.

Negotiation Committee Meeting Dates: June 5; June 18 and July 3.

Approved

Lester Sola
Director

7/16/14
Date

Exhibit 2

Memorandum

MIAMI-DADE COUNTY

Date: May 1, 2014

To: Lester Sola
Director
Internal Services Department

Thru: Miriam Singer, CPPO
Assistant Director
Internal Services Department

From: Andrew Zawoyski, CPPO
Contracting Officer
Chairperson, Negotiations Committee

Subject: Request to Negotiate with Second Ranked Proposer - RFP No. 821
ePayable Payment Card and Debit Card Programs

The County issued a solicitation (RFP) to obtain proposals from qualified firms to provide (a) an accounts payable payment card program ("ePayables" Payment Card Program), with the required technology and services to implement an alternative payment method that uses credit card technology to make electronic payments (the County currently pays via check and ACH/electronic funds transfer); and (b) to provide a debit card program to streamline check payment process for employees and garnishment recipients; and potentially to provide services for other similar County programs that may require such services.

The Evaluation/Selection Committee completed the evaluation of proposals submitted in response to the RFP following the guidelines published in the solicitation with a recommendation to negotiate with the highest ranked proposer Bank of America ("BOA") - see signed memo - Attachment 1.

Negotiations with the highest ranked proposer began on September 18, 2013, with the members that are mentioned in Attachment 1 memo ("Committee"). We have had 14 negotiations sessions in all. The negotiations included (a) discussing and fine tuning two scopes (one for ePayables and one for direct payment card), (b) the terms and conditions (base agreement), (c) separate Bank of America agreements for ePayable and direct payment card and (d) revenues/pricing. After the fourteen negotiations sessions we still have not had agreement on the base agreement, nor completed the scope for direct payment card and revenues/pricing to the County.

Bank of America took several significant and material exceptions to the terms and conditions of the base agreement, as submitted in their proposal. They also included a "Corporate Card Service Agreement" and general provisions for cash pay. After completing the scope for ePayables, we proceeded with the terms and conditions ("t&c's") of the BOA agreement for ePayables. The t&c's for the ePayable agreement were taken from a BOA "P"-card program, which included such terms as dealing with "merchants and suppliers", foreign currency and similar provisions – which the Committee felt did not apply. After methodically reviewing, rewriting, transferring (to the base agreement), accepting or eliminating a significant part of those t&c's, we proceeded to address the base agreement.

The major points of disagreement occurred with a number of exceptions to the County base agreement, the most critical which included an escape clause for BOA in case any of a number of events would occur; a cap (limitation of liability) on the County's indemnification and other clauses, exceptions to County's implementing orders; Florida confidentiality and proprietary language, among others. The latest version with BOA's latest comments are attached as Attachment 2.

On April 2, 2014, the Committee met with BOA to advise that we needed to close out the outstanding issues as it pertains to the base agreement. The Committee made clear that we did not intend to seek any waivers of existing County implementing orders/requirements for indemnifications/limitation on

liability, nor other points raised by the County Attorney Office in their review of the exceptions taken by BOA (as stated in Attachment 2, mentioned above). The Committee advised these terms and conditions would need to be addressed now, as we still had to cover some proprietary/confidential information that BOA requested to withhold until we had agreement on the major issues with the base agreement. These issues were directly related to the "confidential" way BOA provides service for the direct payment card program. BOA advised they did not mind including such information in the final agreement but requested that we cover these matters only after agreement on the major issues of the base agreement were resolved.

The Committee advised BOA of its major concerns and stated that we would need their final position by the morning of April 21, 2014. The County received BOA's response after close of business on April 21, 2014. Among other still outstanding issues BOA advised that they were unable or unwilling to accept certain County provisions, such as Indemnification and County Implementing Order No. 3-9 (referring to County's ability to withhold payments from other contracts the Contractor may have with the County). Additionally, despite the Committee's request that BOA reply with its final position, the document states in several places that BOA would need to "negotiate" and seek "approval by Bank senior management" for certain other provisions.

Working in consultation with the County Attorneys Office, Oren Rosenthal's response to BOA latest position was:

> *"I have reviewed the language and it seems for the most part their response is that they will agree to seek approval of management or rework the language but I see nothing concrete as a counterproposal or actual language. What I have seen regarding Adverse Costs in item 1 suffers from the same problem as before. That is, the proposer is not willing to enter into a contract for the terms and conditions that it has agreed to for the time period proposed. Instead, the proposer wants to enter into a contract for as long as it is profitable. That is not the contract that was solicited. I think this will be the biggest hurdle. The only other pure legal issue is the 119 language which is still unacceptable. The only suggestion I can make is agreeing to notify them of when a request is made which will afford them the opportunity to seek a court order regarding Chapter 119. Without actual language, everything else seems like business decisions that would need Board disclosure and approval/waivers."*

Please see attached email dated April 23, 2014 (attachment 3).

The Committee met on April 25, 2014 and recommends that we terminate negotiations with the highest ranked proposer and begin negotiations with the second highest ranked proposer Wells Fargo based on the reasons cited above.

Negotiation Committee Meeting Dates: 9-18-13; 10-28-13; 12-3-13; 12-5-13; 12-11-13; 12-17-13; 12-18-13; 1-7-14; 1-15-14; 1-21-14; 1-29-14; 3-17-14; 4-2-14; 2-25-14.

Approved

Lester Sola
Director

5/7/14
Date

Exhibit 3

Memorandum

MIAMI-DADE COUNTY

Date: August 13, 2013

To: Lester Sola
Director
Internal Services Department

Thru: Miriam Singer, CPPO
Assistant Director
Internal Services Department

From: Andrew Zawoyski, CPPO
Contracting Officer
Chairperson, Evaluation/Selection Committee

Subject: Report of Evaluation/Selection Committee for RFP No. 821
Accounts Payable Payment Card and Debit Card Programs

The County issued a solicitation to obtain proposals from qualified firms to provide (a) an accounts payable payment card program ("ePayables" Payment Card Program), with the required technology and services to implement an alternative payment method that uses credit card technology to make electronic payments (the County currently pays via check and ACH/electronic funds transfer); and (b) to provide a debit card program to streamline check payment process for employees and garnishment recipients; and potentially to provide services for other similar County programs that may require such services.

The Evaluation/Selection Committee has completed the evaluation of proposals submitted in response to the solicitation following the guidelines published in the solicitation.

Committee meeting dates: May 23, June 7, July 10, July 17 and August 8, 2013

Verification of compliance with contract measures:
Not applicable since no contract measures were assigned to this revenue generating solicitation.

Verification of compliance with minimum qualification requirements:
The solicitation had minimum qualification requirements which were reviewed by the Chairperson and Juan Adan of the client (Finance) Department. All of the proposers met the requirements.

Local Certified Service-Disabled Veteran's Business Enterprise Preference:
Veteran's Preference was considered in accordance with the applicable ordinance. None of the proposers qualified for the preference.

Summary of scores:

The preliminary scores are as follows:

Proposer	Pre-Oral Presentations *Technical Score* (max. 450)	*Payment Score* (max. 50)	*Total Combined Score* (max. 500)
1. Bank of America	408	35	443
2. Wells Fargo	382	33	415
3. JP Morgan	377	28	405
4. Citibank	362	29	391

The Evaluation/Selection Committee decided to hold oral presentations with the top two ranked proposers: Bank of America and Wells Fargo. Price (payment) proposals were evaluated in conjunction with technical proposals.

The final scores are as follows:

Post-Oral Presentations

Proposer	***Technical Score***	***Payment Score***	***Total Combined Score***
	(max. 450)	*(max. 50)*	*(max. 500)*
1. Bank of America	425	41	466
2. Wells Fargo	392	36	428

Local Preference:
Local Preference was considered in accordance with applicable ordinance, but did not affect the outcome as the highest ranked proposer is local.

Other information: The County received five proposals for RFP 821. One of the five proposers PNC Bank ("PNC") submitted a document titled "PNC Legal Statement" which was submitted to the County Attorney Office for review. Based on a written legal opinion, this proposal was deemed non-responsive and was not considered for evaluation. Supporting documents are attached as part of this memo.

Negotiations:
The Evaluation/Selection Committee recommends that the County enter into negotiations with the highest ranked proposer, Bank of America. The following individuals will participate in negotiations:

Andrew Zawoyski, Chief Negotiator/Contracting Officer, ISD
Sandra Bridgeman, Controller, Finance
Connie White, Finance Systems Support Administrator, Finance
Angela De La Cruz-Le Sage, Technical Support Analyst, ITD
Christopher Hill, Chief Portfolio Manager, Finance

Consensus Statement: The Evaluation/Selection Committee Consensus statement is attached.

Copies of the score sheets are attached for each Evaluation/Selection Committee member, as well as a composite score sheet.

Approved

Lester Sola
Director

8/19/13
Date

Exhibit 4

Memorandum

MIAMI-DADE COUNTY

Date: May 22, 2013

To: Oren Rosenthal
Assistant County Attorney
County Attorney's Office

From: Andrew Zawoyski
Chief Negotiator
Internal Services Department

Subject: Request for Responsiveness Determination on RFP No. 821
Accounts Payable Payment Card and Debit Card Programs

On May 13, 2013, proposals were received for the subject RFP and subsequently reviewed for responsiveness. One of the Proposers, PNC Bank (PNC) submitted a properly signed Form A-1, Cover page, however also included in its Proposal a document entitled "PNC Legal Statement" stating "This Proposal is not a contract, a commitment to lend, an offer to enter into a contract or an offer to lend and does not obligate either party to negotiate or enter into any contract in connection with the Services described in this Proposal". Included with this memo is a copy of the Proposer's Form A-1 and the aforementioned PNC legal statement for convenience as well as a copy of the entire proposal. Please advise whether the subject proposal is responsive.

If you have any questions, please contact me at (305) 375-3673. Thank you for your attention to this matter.

Attachments
Referenced Proposal

PNC Legal Statement

Proposal in Response to Miami-Dade County, Florida RFP for Commercial Card Services and Payroll Card Services

This Proposal is delivered by PNC Bank, National Association ("PNC") in response to RFP No. 821 issued by Miami-Dade County ("County") for commercial card services and payroll card services (collectively, the "Services").

This Proposal is not a contract, a commitment to lend, an offer to enter into a contract or an offer to lend and does not obligate either party to negotiate or enter into any contract in connection with the Services described in this Proposal. Any commitment to lend will be subject to credit approval and any binding agreement to accept or provide the Services will be subject to the parties entering a written agreement that will contain terms that are acceptable to the parties. PNC reserves the right to choose not to provide some or all of the Services. County is responsible for all costs associated with its evaluation and due diligence efforts to review this Proposal.

The majority of the terms and provisions contained in the contract set forth in the RFP as "Contract No. 821" do not apply to the credit, financial, and other services that make up the Services. Accordingly, in lieu of working from Contract No. 821, PNC proposes to use its standard documentation for the Services, the current forms of which can be found in **Exhibit A**, and which are specifically tailored to address the Services covered by the RFP. PNC would modify its standard documentation to include additional relevant terms for these types of services, as well as to address the terms and conditions from the RFP as negotiated by the parties. To the extent that the provisions of the RFP are inconsistent with, or are not covered in, our standard documents, our standard documents will govern.

In addition, PNC takes the following exceptions to other terms of the RFP:

1. Form A-1 - PNC provides the following response to the section of Form A-1 of the RFP entitled Criminal Conviction Disclosure: As of the date of this Proposal, none of the current directors of PNC have been convicted of a felony during the last 10 years. Due to the size of the institution and large numbers of officers and executives, PNC is unable to provide the same certification as it relates to officers and executives. However, PNC is prohibited from employing or maintaining an employment relationship with individuals who have committed dishonest acts. PNC has a fidelity bond that protects it against theft and other related losses. Bond coverage terminates for a particular employee when PNC reasonably should know the employee has committed a dishonest or fraudulent act, whether while at PNC or at any other time. Also, Section 19 of the Federal Deposit Insurance Act (FDIA) prohibits PNC from employing any person that has been convicted of, or pled guilty to, a crime involving dishonesty or breach of trust. Furthermore, PNC's signature on Form A-1 is made subject to all the exceptions noted in this Proposal.

2. Neither Forms A-4, A-5, nor A-6 are applicable to PNC and/or the Services.

Memorandum

MIAMI-DADE COUNTY

Exhibit 5

Date: May 28, 2013

To: Andrew Zawoyski
Chief Negotiator
Internal Services Department

From: Oren Rosenthal
Assistant County Attorney

Subject: Responsiveness of Proposal – RFP No. 821, Accounts Payable Payment Card and Debit Card Programs

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You have asked this office if a proposal from PNC Bank ("PNC") may be considered responsive to the above referenced Request for Proposals ("RFP"). For the reasons set forth below, we conclude that PNC's proposal is non-responsive and must be rejected.

FACTS

We rely on the information provided in your memorandum to this office dated May 22, 2013 attached hereto.

The proposal from PNC included a document titled "PNC Legal Statement." That statement provided "This proposal is not a contract, a commitment to lend, an offer to enter into any contract or an offer to lend and does not obligate either party to negotiate or enter into any contract in connection with the Services described in the Proposal."

DISCUSSION

Based on the facts set forth above, PNC's proposals is not responsive and may not be awarded any portion of the RFP. In essence, PNC's submission is, by its own terms, not even a proposal.

There is a two part test to determine if a specific noncompliance in a bid constitutes a substantial and thus nonwaivable issue: (1) whether the effect of the waiver would be to deprive the County of the assurance that the contract would be entered into, performed and guaranteed according to its specific requirements; and (2) whether it would adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders. See, e.g., Glatstien v. City of Miami, 399 So.2d 1005 (Fla. 3d DCA), rev. denied, 407 So.2d 1102 (Fla. 1981).

As PNC's proposal affirmatively disavows any firm offer to the County and denies the County of any assurance that if accepted a contract would be entered in to, PNC's inclusion of this language is fatal to its proposal.

Oren Rosenthal

Exhibit 6

MIAMI - DADE

MIAMI-DADE COUNTY, FLORIDA
Internal Services Department - Procurement Management Services

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Evaluation/Selection Committee Results Memo

RFP No. 821: ePayables and Direct Payment Card Programs

The Evaluation/Selection Committee was tasked with rating and ranking the proposals received in regard to the RFP for ePayables and Direct Payment Card Programs. The Evaluation/Selection Committee scoring was conclusive. The Evaluation/Selection Committee recommends that the County enter into negotiations with Bank of America, NA.

The Evaluation/Selection Committee unanimously agrees that the selected proposer is recommended for negotiations as a result of:

Superior proposal with the following advantages:

- Approach and associated applicable services
- Flexibility on the programs they offer
- Payment card was more robust
- More favorable fees for employees on payment cards
- Better methodology for programs

Walter Fogarty, Manager Procurement Vendor Service, Internal Services Department

Sandra Bridgeman, Controller, Finance

Connie White, Finance Systems Support Administrator, Finance

Angela Boreland, Financial Resources Manager, Miami Dade Fire Rescue

Christopher Hill, Chief Portfolio Manager, Finance

EVALUATION OF PROPOSALS - Post Orals

RFP NO. 821

Accounts Payable Payment Card and Debit Card Programs

EVALUATION OF PROPOSALS

SELECTION CRITERIA ↓ / PROPOSERS →	Maximum Points Per Member	Maximum Total Points (5 members)	Bank of America	Wells Fargo
Proposer's relevant experience, qualifications, past performance, and financial capabilities	25	125	119	111
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	15	75	70	68
Proposer's product and its compliance, functionality, technical capabilities, security and recovery procedures requested in this Solicitation	25	125	115	104
Proposer's approach to providing the services requested in this Solicitation	25	125	121	109
TECHNICAL POINTS *(total of technical rows above)*	90	450	425	392
PRICE CRITERIA Proposer's proposed remuneration to the County as part of the rebate program and other revenue generating benefits	10	50	41	36
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	100	500	466	428

SIGNATURE:

Chairperson

Reviewed By

PRINT NAME: Andrew Zawoyski

Kristina Guillen

8/8/2013

EVALUATION OF PROPOSALS - Post Orals

RFP NO. 821

Accounts Payable Payment Card and Debit Card Programs

Sandra Bridgeman, (FIN)

SELECTION ↓ / PROPOSERS CRITERIA →	Maximum Points	Bank of America	Wells Fargo
Proposer's relevant experience, qualifications, past performance, and financial capabilities	25	24	24
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	15	15	14
Proposer's product and its compliance, functionality, technical capabilities, security and recovery procedures requested in this Solicitation	25	24	24
Proposer's approach to providing the services requested in this Solicitation	25	25	24
TECHNICAL POINTS *(total of technical rows above)*	90	88	86
PRICE CRITERIA Proposer's proposed remuneration to the County as part of the rebate program and other revenue generating benefits	10	8	7
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	100	96	93

Sandra B

SIGNATURE

8/8/13

DATE

8/8/2013

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EVALUATION OF PROPOSALS - Post Orals

RFP NO. 821

Accounts Payable Payment Card and Debit Card Programs

Connie White, (FIN)

SELECTION ↓ / PROPOSERS CRITERIA →	Maximum Points	Bank of America	Wells Fargo
Proposer's relevant experience, qualifications, past performance, and financial capabilities	25	23	21
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	15	15	15
Proposer's product and its compliance, functionality, technical capabilities, security and recovery procedures requested in this Solicitation	25	24	20
Proposer's approach to providing the services requested in this Solicitation	25	24	20
TECHNICAL POINTS *(total of technical rows above)*	90	86	76
PRICE CRITERIA Proposer's proposed remuneration to the County as part of the rebate program and other revenue generating benefits	10	7	7
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	100	93	83

SIGNATURE

8/8/2013

DATE

8/8/2013

EVALUATION OF PROPOSALS - Post Orals

RFP NO. 821

Accounts Payable Payment Card and Debit Card Programs

Walter Fogarty, (ISD)

SELECTION ↓ PROPOSERS CRITERIA →	Maximum Points	Bank of America	Wells Fargo
Proposer's relevant experience, qualifications, past performance, and financial capabilities	25	24	22
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	15	13	12
Proposer's product and its compliance, functionality, technical capabilities, security and recovery procedures requested in this Solicitation	25	23	20
Proposer's approach to providing the services requested in this Solicitation	25	23	22
TECHNICAL POINTS *(total of technical rows above)*	90	83	76
PRICE CRITERIA Proposer's proposed remuneration to the County as part of the rebate program and other revenue generating benefits	10	8	7
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	100	91	83

SIGNATURE

8/8/13
DATE

8/8/2013

EVALUATION OF PROPOSALS - Post Orals

RFP NO. 821

Accounts Payable Payment Card and Debit Card Programs

Christopher Hill (FIN)

SELECTION ↓ PROPOSERS CRITERIA →	Maximum Points	Bank of America	Wells Fargo
Proposer's relevant experience, qualifications, past performance, and financial capabilities	25	23	22
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	15	12	12
Proposer's product and its compliance, functionality, technical capabilities, security and recovery procedures requested in this Solicitation	25	24	22
Proposer's approach to providing the services requested in this Solicitation	25	24	23
TECHNICAL POINTS *(total of technical rows above)*	90	83	79
PRICE CRITERIA Proposer's proposed remuneration to the County as part of the rebate program and other revenue generating benefits	10	10	9
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	100	93	88

SIGNATURE

8/8/13
DATE

8/8/2013

EVALUATION OF PROPOSALS - Post Orals

RFP NO. 821

Accounts Payable Payment Card and Debit Card Programs

Angela Boreland, (MDFR)

SELECTION ↓ / PROPOSERS CRITERIA →	Maximum Points	Bank of America	Wells Fargo
Proposer's relevant experience, qualifications, past performance, and financial capabilities	25	25	22
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	15	15	15
Proposer's product and its compliance, functionality, technical capabilities, security and recovery procedures requested in this Solicitation	25	20	18
Proposer's approach to providing the services requested in this Solicitation	25	25	20
TECHNICAL POINTS *(total of technical rows above)*	90	85	75
PRICE CRITERIA Proposer's proposed remuneration to the County as part of the rebate program and other revenue generating benefits	10	8	6
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	100	93	81

20

SIGNATURE

8/8/13
DATE

8/8/2013

Outstanding Matters pertaining base agreement.

1) The 60 day "out" (and any other "out") clause as well as "bi-lateral" OTR. -- requires disclosure to Board – "inconsistent with solicitation and requirement of term must be removed".

   The bank proposes the following language to address the County's concerns regarding an "out" clause for the bank:
   The Contractor shall have a right for a pricing review to negotiate pricing and rebate changes in the event of:

   (a) decreases, or pending decreases, in interchange,

   (b) increases, or pending increases, in cost of funds, or taxes,

   (c) any change in any present or future law, regulation, order, judicial decision or official directive, or ruling including with respect to Basel III and the United States Dodd-Frank Wall Street Reform and Consumer Protection Act (which, if not having the force of law, would be complied with by a responsible financial institution) that: (i) affects the Contractor's effective rate of return; or (ii) increases the effective cost to the Contractor of performing its obligations hereunder ,

   (d) any adverse financial impact to the Contractor, etc,

   Each of the events listed above is defined as an "Adverse Cost". For the avoidance of doubt, rebate applies only to the ePayables program. Contractor will make available to the County, upon request, any publically available information regarding such changes.

   If the parties do not agree to an increase in pricing and/or a decrease in rebates due to an Adverse Cost within sixty (60) days, the Contractor may terminate the agreement without penalty by providing 180 days notice to the County.

   The Contractor may terminate this Agreement without penalty if it reasonably determines that applicable law prohibits or otherwise makes impossible the Contractor's exercise of rights or performance of its obligations under this Agreement. Termination pursuant to this clause shall be effective as of the effective date of such applicable law, subject to a reasonable implementation period not to exceed 180 days or such shorter period as necessary to comply with the effective date of the applicable law. Before the Contractor can terminate pursuant to this clause, it shall use commercially reasonable efforts to renegotiate the terms of this Agreement for a period of 90 days.

2) Any limitation (cap) on the indemnity clause (and Article 43) – requires disclosure to Board.

The bank would like to work with the County and is willing to discuss options with respect to indemnification. We are unable to accept the County's indemnification provision in Article 10 as written and our proposal response indicated our willingness to offer indemnification with damages capped at a mutually agreed reasonable amount to be negotiated between us. Is the County willing to negotiate this provision and if so, we are willing to discuss options the County might suggest. Any proposal put forth by the County will require approval by Bank senior management. Please indicate to us options the County might consider, if any, and we will appreciate the opportunity to discuss.

3) Requesting any waiver of existing rules, ordinance, orders etc. such as:
   - Article 4 – making changes.
     Making changes applicable for all clients seems to be the big concern for the County. We don't see how we can remove that sentence. An example would be if we changed processors, i.e VISA to Mastercard, it would impact all clients and we could not single out a specific client to not receive the change. Also, if we see a change that would be an improvement for our client base we want to be able to make it without asking everyone's permission.
   - Article 9 – exception would require request of Board to waive County Implementing Order (IO) 3-9.
     Retention of the language as written is problematic. The ability of the County to withhold payment against anything we may owe them (not just under this agreement) is in direct conflict with language in the product specific agreement (ePayables) that states they have no right to defer any payment due on any Card Account. Also, because it is not limited to this contract, there could be a potential accounting nightmare for both parties if other agreements with other areas of the bank were brought into this. Further, the County ordinance referenced is related to dealing with Accounts Receivable. For the products requested, anything we might owe them is a revenue share, not an accounts receivable. And if limited to this agreement it doesn't make sense because the only payments the County would be expecting from the bank would be rebate, a conditions of which is on time payment from the County. Withholding of payment from the bank could adversely impact the rebate received. Would the County be willing to remove the "or for any other purpose" language from the provision. That would make it more palatable to the bank, though we still do not see that it applies for this agreement.
   - Article 10 (covered in 2 above, but requires us to report such limitation to the Board).
     See bank's comments to 2 above.

4) Article 11c – "we cannot enter into a contract that abdicates the County's legislative authority – deletions must be replaced.
   The bank doesn't like to agree contractually to local regulations, statutes, ordinances and regulations that we may not be aware of. Based on use of the word "applicable", we are willing to take this provision to senior management to request approval to accept.
5) Article 14b inclusion – BOA language moots the entire article.
   Andrew indicated he would try to fine tune the bank's inserted language based on our last conversation.
6) Article 20d – allows BOA to select a not responsible firm.
   Contracts we have with our subcontractors are confidential and are not shared with our client and the contracts are between the subcontractor and us, not the County. We are responsible for the performance of our subcontractors as it related to the provision of services and as a highly regulated banking association, we have a robust and stringent vendor management program. Additionally, a comment from the bank's vendor management group: Bank of America's Vendor Management Program provides assurance that vendors engaged have been vetted through comprehensive due diligence and the vendor's processes and controls are

subjected to ongoing oversight. The Vendor Management Program has been reviewed and validated by the Company's internal auditors and compliance risk management.

7) Article 23b – deletion of language requires disclosure to Board.
   If the County terminates this contract due to the bank attempting to meet its contractual obligations through fraud or misrepresentation, the language allows the County to terminate any other contract with the bank. We do not want this ePayables/Cashpay contract tied to any other contract with the County and must stand alone. We don't believe we could get approval to accept this – there are too many unknowns.
8) Article 28 – Inconsistent with Chapter 119 FS regarding public record – County may not pre-agree that all Material is confidential and a trade secret. Must be re-written.
   As defined, Materials refers primarily to the technical aspects of what is provided to the County to utilize the services and we do not want them disclosed to the general public and they would have no application for someone making a public records request. We propose adding this definition of "Materials" for clarification: *"The Software Application, user identification codes, passwords, codes, keys, test keys, security devices, embedded algorithms, digital signatures and certificates, other similar devices and information, User Documentation and related documentation Bank of America provides to the County."*
9) Article 31b – Inconsistent with MDC code 2-11.1 and conflicts with prior sentence. Contract is voidable if conflict is violated.
   Agreed. We propose retaining the first sentence inserted and deleting the final sentence: "County will notify Contractor of any potential conflict that has been disclosed by County's employees to allow Contractor the opportunity to review and respond."
10) Article 44 should be removed.
   This section contains standard representations and warranties we request of all of the bank's clients. The bank can add language that states "With respect to the provision of services and the Contractor's obligations under this Agreement," to the beginning of all three paragraphs in this section. The only other option is to remove it from the base agreement and place it in each of the product specific agreements.

MEMORANDUM
(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: October 6, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(F)(7)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

_____ **No committee review**

✓ **Applicable legislation requires more than a majority vote (i.e., 2/3's ✓, 3/5's ____, unanimous _____) to approve**

✓ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(7)
10-6-15

RESOLUTION NO. R-835-15

RESOLUTION AUTHORIZING WAIVER OF FORMAL BID PROCEDURES PURSUANT TO SECTION 5.03(D) OF THE HOME RULE CHARTER AND SECTION 2-8.1 OF THE COUNTY CODE AND BID PROTEST PROCEDURES OF SECTIONS 2-8.3 AND 2-8.4 OF THE COUNTY CODE BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT; AWARDING A REVENUE GENERATING CONTRACT TO WELLS FARGO BANK, N.A., IN AN ESTIMATED AMOUNT OF $3,140,000.00 FOR ACCOUNTS PAYABLE PAYMENT CARD AND DEBIT CARD PROGRAMS FOR A FIVE-YEAR TERM WITH ONE, THREE-YEAR OPTION TO RENEW; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SUCH CONTRACT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, it has been established that specified items and services cannot be purchased under normal bid procedures,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board finds it is in the best interest of Miami-Dade County to waive formal bid procedures, pursuant to Section 5.03(D) of the Home Rule Charter and Section 2-8.1 of the County Code, by a two-thirds (2/3) vote of the Board Members present, and award a contract to Wells Fargo Bank, N.A., with an estimated revenue of $3,140,000.00 to the County for a five-year term and one, three-year option to renew for

Accounts Payable Payment Card and Debit Card Programs, in substantially the form attached hereto and made a part hereof and authorizes the County Mayor or County Mayor's designee to execute such contract and exercise all provisions of the contract pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

Section 2. Furthermore, the Board waives the procedures contained in Sections 2-8.3 and 2-8.4 of the County Code pertaining to bid protests, by a two-thirds (2/3) vote of the Board members present.

The foregoing resolution was offered by Commissioner **Daniella Levine Cava**, who moved its adoption. The motion was seconded by Commissioner **Audrey M. Edmonson** and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	**nay**		
Esteban Bovo, Jr., Vice Chairman	**absent**		
Bruno A. Barreiro	**absent**	Daniella Levine Cava	**aye**
Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**absent**	Barbara J. Jordan	**aye**
Dennis C. Moss	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**aye**
Juan C. Zapata	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of October, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Oren Rosenthal

Contract No. 821

THIS AGREEMENT made and entered into as of this _____ day of _____, 2015 by and between Wells Fargo Bank, National Association, a national association organized and existing under the laws of the United States of America and having an office at 200 South Biscayne Boulevard, 14th Floor, Miami, Florida 33131 (hereinafter referred to as the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide ePayables commercial/purchasing card services, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. 821 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated May 13, 2013, supplemented by Contractor's presentation to the County on August 8, 2013, hereinafter collectively referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the County desires to procure from the Contractor such ePayables commercial/purchasing card services for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

a) The words "Contract" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), the Price Schedule (Appendix B), the Card Agreement (Appendix C) all other appendices and attachments hereto, all amendments issued hereto, RFP No. 821 and all associated addenda, and the Contractor's Proposal.

b) The words "Contract Date" to mean the date on which this Agreement is effective.

c) The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.

d) The word "Contractor" to mean Wells Fargo Bank, National Association and its permitted successors and assigns.

e) The word "Days" to mean Calendar Days.

f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.

g) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.

h) The words "Extra Work" or "Additional Work" resulting in additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.

i) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.

k) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.

l) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor; provided, however, that: (i) Visa® or MasterCard®, as applicable, shall not be considered to be a "subcontractor" or "subconsultant"; and (ii) a contractual or other arrangement between the Contractor and another person or entity relating to the outsourcing of services or functions which are not specific to those required under the Agreement (for example, services which the Contractor makes available to applicable customers generally) will not be deemed a "subcontract" or "subconsultancy" for any purpose under this Agreement, and the person or entity that is a party to such an arrangement with the Contractor will not be deemed a "subcontractor" or "subconsultant" of the Contractor.

m) The words "Work", "Services" "Program", or "Project" to mean all matters and things

required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions; 2) the Scope of Services (Appendix A); 3) the Pricing Schedule (Appendix B), 4) the WellsOne® Commercial Card Agreement, including the Supplier and Analysis & Onboarding Commercial Card Conversion Service and the CCER AP Control Service Description attached thereto (Appendix C); 5) the Miami-Dade County's RFP No. 821 and any associated addenda and attachments thereof; and 6) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.

b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.

c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.

d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives. This Agreement shall not be construed against the party preparing it. It shall be construed as if all parties hereto jointly prepared this Agreement.

b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.

c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.

d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract.

All Work and Services shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.

e) The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor agrees to use commercially reasonable efforts to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and commercially reasonable manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date stated on page 1 of this Agreement and shall have an initial term of five years, plus an implementation period of approximately four months. The County and the Contractor shall agree to a "Go-Live" date at which time the Program Year will begin as it pertains to rebates paid to the County as further detailed in Appendix B. The County, at its sole discretion, reserves the right to exercise one (1) option to renew this Contract for a period three (3) years. The County reserves the right to exercise its option to extend this Contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

(1) to the County

to the Project Manager:
Miami-Dade County Finance Department
111 N.W. 1st Street, Suite 2600
Miami, FL 33128
Attention: Finance Director
Phone: (305) 375-5245

and,

a) to the Contract Manager:
Miami-Dade County
Internal Services Department, Procurement Management Division
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974
Attention: Assistant Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor

Wells Fargo Bank, National Association
Government & Institutional Banking
200 South Biscayne Boulevard, 14th Floor
Miami, FL 33131
Attention: Lance Aylsworth
Phone: 305-789-4824

Fax: 305-789-4944
E-mail: lance.aylsworth@wellsfargo.com

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the price the Contractor will charge for any services to be performed under this Contract as further detailed in Appendix B.

All Services undertaken by the Contractor before County's approval of this Contract shall be at the Contractor's risk and expense.

With respect to travel costs and travel-related expenses of Contractor for which Contractor seeks reimbursement from County, the Contractor agrees to adhere to Section 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses, including employee lodging, transportation, per diem, and all miscellaneous cost and fees. The County shall not be liable for any such expenses that have not been approved in advance, in writing, by the County.

ARTICLE 8. REVENUE SHARE AND BONUS TO COUNTY

The Contractor shall pay to County Revenue Share (also "Rebates") and Bonus, as per Appendix B, Revenue Share and Bonus Program, for the County's participation in this Program, shall remain firm and fixed for the term of the Contract, including any option or extension periods; however, the Contractor may offer higher Rebates to the County at any time during the Contract term, including any renewal or extension thereof.

In the event that substantial changes beyond the Contractor's control in the two instances referenced below occur, the Contract can offer a modified rebate program to the County for consideration and for potential negotiations. The County will have sixty (60) days to negotiate and accept the modified rebate program. The two instances include:

a) If such reduction is required to comply with or reflect the materially adverse financial impact of any change in law or regulation or the interpretation thereof; or
b) If such reduction is required to comply with or reflect the materially adverse financial impact of any change in the operating regulations or business practices of Visa® or MasterCard®, as applicable, including changes related to credit card interchange fees.

ARTICLE 9. COUNTY REIMBURSEMENT OF ADVANCES AND PAYMENT OF CHARGES AND FEES

Billing and reimbursement of advances and payment of charges and fees related to County's ePayables commercial/purchasing card services shall be pursuant to Sections 1, 2 and 13 (to the extent applicable) of Appendix C and pursuant to Appendix B.

In accordance with Miami-Dade County Implementing Order 3-9, Accounts Receivable Adjustments, if money is owed by the Contractor to the County, whether under this Contract or for any other purpose, the County reserves the right to retain such amount from payment due by County to the Contractor under this Contract. Such retained amount shall be applied to the amount owed by the Contractor to the County. The Contractor shall have no further claim to such retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Contractor for the applicable payment due herein.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the negligent performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or subcontractors. Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

The Contractor shall furnish to the Internal Services Department/Procurement Management Services, 111 NW 1st Street, Suite 1300, Miami, Florida 33128-1989, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.

B. Commercial General Liability Insurance on a comprehensive basis in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be included as an additional insured with respect to this coverage.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services and are members of the Florida Guaranty Fund.

NOTE: CERTIFICATE HOLDER MUST READ:

MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128

The Contractor hereby agrees not to modify the insurance coverage that results in noncompliance with the insurance requirements outlined herein without thirty (30) days written advance notice to the County.

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days after notification of recommendation to award. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall have an additional five (5) business days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Contractor shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

The Contractor shall be responsible for ensuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of five (5) calendar days of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

ARTICLE 11. MANNER OF PERFORMANCE

a) The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County, the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.

b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.

c) The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.

d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.

e) The Contractor shall at all times cooperate with the County and coordinate its respective work

efforts to most effectively and efficiently maintain the progress in performing the Services.

f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES OF THE CONTRACTOR

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

ARTICLE 14. AUTHORITY OF THE COUNTY'S PROJECT MANAGER

a) The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.

b) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.

c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.

d) In the event of such dispute, the parties to this Agreement authorize the County Mayor or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Mayor's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Mayor within 10 days of the occurrence, event or act out

of which the dispute arises.

e) The County Mayor may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Mayor participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Mayor for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Mayor is entitled to exercise discretion or judgment or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Mayor, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

ARTICLE 15. MUTUAL OBLIGATIONS

a) This Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.

b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.

c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

d) Force Majeure – Neither party shall be liable to the other for failures or delays in performance due to causes beyond its reasonable control and that cannot be avoided by exercise of due care, including war, fire, flood, hurricane, and other acts of God. Both parties agree to use their commercially reasonable efforts to minimize the effects of such failures and delays.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 17. AUDITS

The County, or its duly authorized representatives or governmental agencies, shall until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the

County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to County Ordinance No. 03-2, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 20. SUBCONTRACTUAL RELATIONS

a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.

b) The Contractor, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.

c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.

d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.

e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a

clause for the benefit of the County in the event the County finds the Contractor in breach of this Contract, permitting the County to request completion by the Subcontractor of its performance obligations under the subcontract. The clause shall include an option for the County to pay the Subcontractor directly for the performance by such Subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any subcontractor hereunder as more fully described herein.

ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

a) The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.

b) The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.

c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.

d) In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor.

e) In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:

   i. stop work on the date specified in the notice ("the Effective Termination Date");

   ii. take such action as may be necessary for the protection and preservation of the County's materials and property;

   iii. cancel orders;

   iv. assign to the County and deliver to any location designated by the County any non-

cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;

v. take no action which will increase the amounts payable by the County under this Agreement; and

f) In the event that the County exercises its right to terminate this Agreement, the Contractor will be compensated as stated in the payment Articles herein for the:

i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and

ii. non-cancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the Services.

g) All compensation pursuant to this Article are subject to audit.

ARTICLE 24. EVENT OF DEFAULT

a) An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:

i. the Contractor has not delivered Deliverables on a timely basis;

ii. the Contractor has refused or failed, except in cases for which an extension of time is provided, to supply enough properly skilled staff personnel;

iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;

iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;

v. the Contractor has failed to obtain the approval of the County where required by this Agreement;

vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below;

vii. the Contractor has failed in the representation of any warranties stated herein.

b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with the terms of this Agreement. Until the County receives such assurances, the County may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed timeframe, the County may:

i. treat such failure as a repudiation of this Agreement; and

ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.

c) In the event the County shall terminate this Agreement for default, the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports and data that solely and specifically pertain to the Work performed under this Agreement.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs in the determination of the County, the County may so notify the Contractor ("Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The default notice shall specify the date the Contractor shall discontinue the Services upon the Termination Date.

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, the Contractor shall be liable for all direct damages resulting from the default. If an Event of Default occurs as the result of the Contractor's gross negligence or willful misconduct, the Contractor shall be liable for the following:

a) all direct damages resulting from the default; and
b) lost revenues to the extent such lost revenues are a direct result of the default; and
c) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for re-procurement of Services, including procurement and administrative costs.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

a) The Contractor shall not infringe on any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights in the performance of the Work.

b) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: equipment, programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights.

c) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of

the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.

d) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).

e) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

ARTICLE 28. CONFIDENTIALITY

a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered Confidential Information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.

b) The Contractor shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.

c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 29. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law.

The Contractor acknowledges that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

During the term of the contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used or is using, is holding for use, or which are otherwise in the possession of the County (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure or removal.

ARTICLE 30. PROPRIETARY RIGHTS

a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.

b) All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.

c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.

d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

Notwithstanding the foregoing or any other statement in this Agreement to the contrary, the County acknowledges that while the County will have the right to receive data and reports associated with the Services provided hereunder, the Contractor is a national bank and is providing credit card, debit card, payroll card and other or related Services to the County hereunder in its capacity as a national bank. The Contractor therefore reserves all rights in the Contractor's intellectual property used or otherwise made available or accessible to or provided to the County in providing the Services or Work regardless of location or date of development, as such intellectual property exists as of the Effective Date of this Agreement and as such intellectual property grows, changes and evolves in the future. The Contractor's intellectual property includes, but is not limited to, systems, software and hardware. All intellectual property of the Contractor is and shall remain the Contractor's confidential information. The Contractor shall not be required to take any action which would be in derogation of the rights the Contractor has reserved to itself in such intellectual property or which would impair the value of such intellectual property.

ARTICLE 31. VENDOR REGISTRATION/CONFLICT OF INTEREST

a) Vendor Registration

The Contractor shall be a registered vendor with the County – Internal Services Department, Procurement Management Division, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Contractor confirms its knowledge of and commitment to comply with the following:

1. ***Miami-Dade County Ownership Disclosure Affidavit***
   (Section 2-8.1 of the County Code)
2. ***Miami-Dade County Employment Disclosure Affidavit***
   (Section 2.8-1(d)(2) of the County Code)
3. ***Miami-Dade Employment Drug-free Workplace Certification***
   (Section 2-8.1.2(b) of the County Code)
4. ***Miami-Dade Disability and Nondiscrimination Affidavit***

   (Section 2-8.1.5 of the County Code*)*
5. ***Miami-Dade County Debarment Disclosure Affidavit***
   (Section 10.38 of the County Code)
6. ***Miami-Dade County Vendor Obligation to County Affidavit***

   (Section 2-8.1 of the County Code)
7. ***Miami-Dade County Code of Business Ethics Affidavit***

(Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)

8. ***Miami-Dade County Family Leave Affidavit***
(Article V of Chapter 11 of the County Code)

9. ***Miami-Dade County Living Wage Affidavit***
(Section 2-8.9 of the County Code)

10. ***Miami-Dade County Domestic Leave and Reporting Affidavit***
(Article 8, Section 11A-60 11A-67 of the County Code)

11. ***Subcontracting Practices***
(Ordinance 97-35)

12. ***Subcontractor /Supplier Listing***
(Section 2-8.8 of the County Code)

13. ***Environmentally Acceptable Packaging***
(Resolution R-738-92)

14. ***W-9 and 8109 Forms***
(as required by the Internal Revenue Service)

15. ***FEIN Number or Social Security Number***
In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:
   - Identification of individual account records
   - To make payments to individual/Contractor for goods and services provided to Miami-Dade County
   - Tax reporting purposes
   - To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

16. ***Office of the Inspector General***
(Section 2-1076 of the County Code)

17. ***Small Business Enterprises***
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

18. ***Antitrust Laws***
By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

b) Conflict of Interest
Section 2-11.1(d) of Miami-Dade County Code requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethics Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Contractor, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on

all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (I) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under $1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including, but not limited to:

a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.

b) Miami-Dade County Florida, Department of Small Business Development Participation Provisions, as applicable to this Contract.

c) Environmental Protection Agency (EPA), as applicable to this Contract.

d) Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment without regard to race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in a conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.

e) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.

f) Miami-Dade County Code Section 10-38 "Debarment".

g) Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.

h) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

The Contractor shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the County or Contractor for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Contractor. The Project Manager shall verify the certification(s), license(s), permit(s), etc. for the Contractor prior to authorizing work and as needed.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

Contractor acknowledges that all information submitted as part of, or in support of the performance of Work hereunder will be available for public inspection, in compliance with Chapter 119, Florida Statutes, popularly known as the "Public Record Law". Furthermore, good faith compliance on the County's part with the Public Records Law are not considered as a breach of the contract regardless of any language contained herein to the contrary.

ARTICLE 34. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.

b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

   i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or

   ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.

c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and

b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and

c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 37. BANKRUPTCY

The County reserves the right to terminate this Agreement, if, during the term of this Agreement, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Party under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be Miami-Dade County.

ARTICLE 39. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code of Miami-Dade County, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify the South Florida Workforce Investment Board ("SFWIB"), the designated Referral Agency, of the vacancy and list the vacancy with SFWIB according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the SFWIB. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Contractor will be required to provide quarterly reports to the SFWIB indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of $1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the Program are available at https://iapps.southfloridaworkforce.com/firstsource/ or by contacting the SFWIB at (305) 594-7615, Extension 407.

ARTICLE 40. TERMINATION BY CONTRACTOR

The Contractor may terminate this Agreement in the event that substantial changes beyond the Contractor's control in the two instances referenced below occur, and it has been determined that Contractor cannot offer a modified Rebate program to the County:

a) If such reduction is required to comply with or reflect the materially adverse financial impact of any change in law or regulation or the interpretation thereof; or
b) If such reduction is required to comply with or reflect the materially adverse financial

impact of any change in the operating regulations or business practices of Visa® or MasterCard®, as applicable, including changes related to credit card interchange fees.

ARTICLE 41. TERMINATION BY CONTRACTOR FOR COUNTY DEFAULT

The Contractor may terminate this Agreement in the event the County defaults for the occurrences as outlined in Appendix C, Articles 9 and 10; however, prior to any such event the Contractor shall provide a written notification to the County, pursuant to Article 6 above, advising the County of any such event, and allow the County to cure within a 30 day time frame or as otherwise stated in Article 9 in Appendix C.

ARTICLE 42. SURVIVAL

The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Contractor and the County under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

Contractor	Miami-Dade County
By: _____	By: _____
Name: Lance Aylsworth	Name: Carlos A. Gimenez
Title: Vice President	Title: Mayor
Date: 2/2/2015	Date: _____
Attest: _____ Corporate Secretary/Notary Public	Attest: _____ Clerk of the Board
Corporate Seal/Notary Seal	Approved as to form and legal sufficiency
Nelson Hernandez State of Florida My Commission Expires 07/08/2018 Commission No. FF 139972	_____ Assistant County Attorney

SCOPE OF SERVICES

The Contractor shall provide an ePayable payment program as further defined in this Scope of Services.

1.0 Background

Miami-Dade County is the largest county in the State of Florida employing approximately 26,000 workers who provide services to over 2.5 million residents. It includes unincorporated areas of the County and 36 municipalities; among them the cities of Miami, Miami Beach, Coral Gables, and Hialeah. The County government is comprised of over 25 County departments which are in distinct lines of business.

1.1 Online System Configuration

The County currently uses the ONLINE FAMIS suite version 5.1 (hereinafter referred to as FAMIS) from N. Harris Corporate (formerly, Cogsdale Holdings, Ltd) for financials and procurement. This is a legacy, mainframe set of application modules running on an IBM mainframe 2098/P03 series computer under z/OS1.09 operating system. The online programs run under the control of a CICS Transaction Server 3.2 which performs the on-line transaction management. The Data Management structure of the files comprises mostly VSAM and Sequential files. Accessibility is through a mainframe terminal, Windows GUI, web services and batch interface files.

2.0 ePayable Payment Card Program

The ePayable payment card program shall hereinafter be referred to as "AP Control" Program (also, "AP Program").

2.1 AP Control Program

The AP Control Program is an alternate payee payment method that uses credit card technology to electronically pay County Payees (contractors/vendors with whom the County does business). The County also pays Payees via check and ACH - electronic funds transfers.

2.1.1 County Annual Spend

In FY 2012 (October 2011 – September 2012) the County had a total of $1,084.6 million of vendor payments. This total consists of $193.9 million of payments made via check and $890.7 million of payments made via ACH. The average monthly payment is $90.4 million.

2.1.2 Objective for AP Control Program

The objective of the AP Program is for the Contractor to provide an alternative electronic payment method for the County to pay its Payees. This payment method provides the capability to securely transmit invoice information approved for payment by the County to the Contractor. The Contractor will use credit card technology to make funds available to the County vendors which enroll in this AP Program. The Contractor will then bill the County for the funds disbursed via the card. As part of this AP Program, the Contractor will provide a solution for tracking, reporting and reconciling. This AP Program also provides for an opportunity for the County to obtain revenues through cash rebates from Contractor as further defined in the Agreement.

The Contractor will provide the required solution and the services necessary for the full implementation of the AP Program. This includes but is not limited to, in coordination with County staff, all required continued support of program management and monitoring, project

management, implementation, training, Payee outreach, and any other assistance required to furnish and deliver an epayables payment alternative that will meet the County's objectives.

The Contractor's AP Program shall:

- Provide a revenue generating opportunity for the County as further detailed in the Agreement.
- Provide an auditable means of verifying the calculation of the rebate amounts which may include payments and credits used to calculate rebate(s).
- Support enrollment and program management during all phases of the AP Program in coordination with County staff.
- Provide a process that will ensure Payee cannot make partial draws of individual transactions made by the County and require the Payee to accept funds within an agreed upon specified time period.
- Provide a web-based solution with any needed on-going maintenance.
- Provide a secure application in accordance with County security standards with full audit capability to allow for detailed reporting, analyses, and automated reconciliation of payments to Payees and financial institution invoices to the County, in order to reduce County staff effort required for reconciliations related to the AP Program.
- Provide functionality for the County to independently run reports for transactions processed through the program.
- Provide ability for Payees who enroll in the AP Program have verification of the receipt of payment.
- Provide implementation services as described in the 'Implementation Milestones' document included in the appendix to the Contractor's Proposal.
- Provide training and support during the implementation and post-implementation phases as described in pages 46-48 of the Contractor's Proposal.
- Assist the County in developing a process for information storage of archived data in the County's platform.

2.2 OPTIONAL SERVICES

The County may seek to obtain additional payment programs through this Agreement and the Contractor shall offer the County such program as "Optional Services". Examples of the type of programs include similar programs as stated above for different County departments/divisions/offices etc.

While it is envisioned that several departments may implement payment services over the life of this Agreement, the County does not warrant that any such optional services will ever be requested or required.

Appendix B
Price Schedule

ePayable Payment Program ("AP Control" Program)

I. Definitions. Capitalized terms herein that are not otherwise specifically defined herein shall have the same meanings as set forth in the Agreement. As used in this Appendix B, the following terms shall have the following-described meanings:

"Program Year" means a twelve (12) month period beginning on the Go-Live Date.

"Spend Volume" means the total dollar amount of purchases of goods and services in any Program Year using the Card issued by Contractor (for County's US Dollar program only), net of chargebacks and credits, and not including cash advances or balance transfers.

"Start of Card Program" means the Go-Live Date, as agreed by County and Contractor following implementation of the AP Program.

II. Revenue Share Schedule:
The Revenue Share Schedule shall be based upon a Program Year, meaning starting on the Go-Live Date and ending one year later ("Anniversary Date"). The Contractor shall pay rebate to the County within forty-five (45) days following the end of each Program Year. The Contractor may not pay any rebate for any Program Year if the County's average transaction size for such year is less than $500.

The Rebate Scheduled is as stated below:

Net Purchase Volume *				Revenue Share (7 day)	
$ 0	to	$	2,999,999	0	Basis points (bps)
$ 3,000,000	to	$	9,999,999	104	bps
$ 10,000,000	to	$	19,999,999	144	bps
$ 20,000,000	to	$	29,999,999	149	bps
$ 30,000,000	to	$	39,999,999	154	bps
$ 40,000,000	to	$	49,999,999	159	bps
$ 50,000,000	to	$	74,999,999	164	bps
$ 75,000,000	to	$	99,999,999	168	bps
$ 100,000,000 and above				172	bps

The Revenue Share amount to be paid to County annually, (if any) shall be calculated and applied retroactively by multiplying the applicable Revenue Share bps times the Net Purchase Volume for the previous year. No Revenue Share shall be owed for the previous year if: (i) County terminates this Agreement prior to the Anniversary Date, or (ii) Contractor terminates this Agreement pursuant to Article 40 of the Agreement prior to the Anniversary Date.

***Total volume minus credits and cash advances (if applicable).** Contractor will segregate Large Ticket Transactions as defined below and as qualified by Visa®, as applicable. The term "Large Ticket Transaction" as used herein shall mean (i) certain transactions subject to select large ticket transaction requirements, qualified and determined by Visa®, as applicable, in its sole and absolute discretion and (ii) transactions with merchants participating in promotional interchange programs offered by Visa® (including the Visa Partner Program for B2B) that qualify for non-standard promotional interchange rates. Such Visa® large ticket transaction qualification requirements for large ticket interchange shall include, but not be limited to, custom payment service qualification with Level II and Level III data included with the transaction.

Appendix B
Price Schedule

The following terms and conditions shall apply under this Attachment: i) County must obtain an annual minimum Net Purchase Volume of $3,000,000, which shall include both qualified and non-qualified Large Ticket Transactions, to receive a Revenue Share payment under this Agreement, ii) Contractor will segregate Large Ticket Transactions (as qualified by Visa®), and iii) If such Large Ticket Transactions are segregated, County's Net Purchase Volume will be segregated into either the Standard non-qualified Large Ticket Revenue Share Schedule set forth above or the qualified Large Ticket Revenue Share Schedule set forth below for purposes of Revenue Share calculation:

Qualified Large Ticket Revenue Share Schedule:

Net Purchase Volume of Qualified Large Ticket Transactions*	Revenue Share
$ 1.00 and above	60 - basis points (bps)

III. Fees:

STANDARD FEES:

ONE TIME FEES:

Set-up Fee	$ Waived
On-site Implementation Fee	$ Not Selected

RECURRING FEES:

Program maintenance	$ Waived /Month
Card Issuance	$ Waived /Account
Transaction Fee	$ Waived /Transaction
CCER Reporting Solution	$ Waived /Month

MISCELLANEOUS FEES (Applicable Only If County Uses This Service):

Cash Advance Fee	2%/$2 minimum
Cross-Border Transactional Fee	1 % / Transaction
Card Artwork	$ 300.00
Manual Reports	$ 175.00/ Report
Rush Card	$ 10.00/Incident
Phone Re-Training	$ 175.00/Incident - Waived
Custom Data Solutions File	$ 75.00/ Hour
Other	$ N/A

- If County opts to use ACH reimbursement for out-of-pocket expenses, separate ACH fees will apply.
- If County opts to use the Commercial Card Expense Reporting solution, accessed through the Commercial Electronic Office (CEO), separate CEO access charges may apply.

Appendix B
Price Schedule

IV. Bonus

Contractor agrees to pay to County the following sign-on bonus and one-time spend bonus subject to the terms and conditions, including refund obligations, set forth below:

A. Sign-On Bonus. Contractor will pay to County a sign-on bonus in the amount of $100,000.00 (the "Sign-On Bonus"), which will be payable to County within thirty (30) days after the execution of the Agreement. The Sign-On Bonus is not refundable to the Contractor under any circumstances.

B. Spend Bonus. In addition to the Sign-On Bonus, an additional one-time spend bonus in the amount of $50,000 (the "Spend Bonus") will be payable to County within ninety (90) days following the end of the Program Year, if any, in which County first achieves annual Spend Volume of $50,000,000 or more.

County shall refund to Contractor (within thirty [30] days of Contractor's notice to County that such refund is due) the Spend Bonus paid to County by Contractor pursuant to this Appendix B, if the following should occur:

(1) If this Agreement is terminated by Contractor pursuant to Article 40 in Agreement, prior to the expiration of five (5) complete Program Years.

APPENDIX C

WELLSONE® COMMERCIAL CARD AGREEMENT

This WellsOne® Commercial Card Agreement (this **"Card Agreement"**) is made and entered into effective as of the date last executed below (the **"Effective Date"**), by and between Wells Fargo Bank, National Association (**"Wells Fargo"**) and Miami-Dade County (**"Customer"**).

Introduction

This Card Agreement governs the Visa® *WellsOne* Commercial Card (**"Card"**) issued by Wells Fargo for use by Customer and its designated employees, subsidiaries, affiliates, agents and representatives (**"Cardholders"**). In this Card Agreement, "Card" shall mean individually and collectively, all *WellsOne* Commercial Cards and account numbers issued to Customer, Cardholders and the associated accounts including all card-not-present transactions and account numbers (including, without limitation, "virtual" single use card account numbers associated with a CCER AP Control program). Customer shall not be required to order physical (*i.e.*, plastic) Cards under this Card Agreement. The transactions made using the Card constitute extensions of credit by Wells Fargo to Customer and not to individual employees, or agents of Customer. In order to participate in the *WellsOne* Commercial Card program, Customer shall at all times maintain ten (10) or more Cards. Attachment A-1 (Program Information), Attachment A-2 (Multiple Division Billing Program Information), if applicable, Attachment B (Program Administrator), Schedule 1 (the Wells Fargo Supplier Analysis & Onboarding Commercial Card Conversion Service) and Schedule 2 (the CCER AP Control Service Description) are incorporated into this Card Agreement. For good and valuable consideration, and intending to be legally bound hereby, Customer and Wells Fargo agree to each and every term and condition of this Card Agreement as set forth below, subject to the order of precedence set forth in that certain Contract No. 821, by and between Customer and Wells Fargo, entered into as of even date herewith (as such contract may be amended, restated, supplemented or otherwise modified from time to time, the "**Agreement**"):

1. **Permitted Uses of Card; Promise to Pay; Credit Limit.** The Card may be used for Cardholders' Customer-related purchasing, travel and entertainment, general payables and fleet purchases; to the extent such functionality is offered to Customer by Wells Fargo and accepted by Customer. Customer agrees that the Card shall be used for business purposes only. In no event shall the Card be used for any transaction that is unlawful or illegal under any applicable law, including but not limited to, **"restricted transactions"** as defined in the Unlawful Internet Gambling Enforcement Act of 2006 and Regulation GG issued thereunder. Except as otherwise provided in the "Liability for Unauthorized Use" Section below, Customer agrees to pay Wells Fargo, when due, the total of all purchases made with the Card. Customer also promises to pay the total of all other fees (if any) and charges due on the Card, as stated in Appendix B: Price Schedule of the Agreement, and all costs and expenses, including all reasonable attorney's fees, and other reasonable legal costs incurred by Wells Fargo in enforcing this Card Agreement, to the extent such enforcement action is successful and Wells Fargo substantially prevails in such proceeding. Customer agrees that the total of all transactions charged to all Cards and account numbers issued hereunder outstanding at any time shall not exceed the Credit Limit specified in Attachment A-1, or as may be changed from time to time. Customer agrees that it is responsible for repaying outstanding balances under the Card, including but not limited to those that exceed its Credit Limit. Wells Fargo may change the Credit Limit at any time and will promptly notify Customer as may be required by applicable law. Termination or expiration of this Card Agreement does not terminate Customer's obligation for all amounts owed pursuant to this Card Agreement and Appendix B to the Agreement.

2. **Debit Authorization.** Customer hereby authorizes and directs Wells Fargo to pay the total of all amounts charged on the Card as a result of purchases, other transactions, fees, charges, costs and expenses by debiting Customer's Wells Fargo Demand Deposit Account(s) as indicated on Attachment A-1 and, if applicable, Attachment A-2 (the **"Account(s)"**), on the 7th calendar day (or next Business Day if the calendar day is not a Business Day) (the **"Due Date"**) following the date of each *WellsOne* Commercial Card billing statement provided to Customer (the **"Billing Statement Date"**). Any payment received on or after the Billing Statement Date and before the Due Date will be applied to reduce the amount debited from the Account(s) on the Due Date. A **"Business Day"** shall mean any day (except Saturday or Sunday) that Wells Fargo is open for business. Wells Fargo may also debit the Account(s) at any time for the purpose of settling Card transactions and payoffs of any fees, charges, costs and expenses as stated in this Card Agreement or as otherwise agreed to and owed by Customer. The Account(s) shall also be subject to the terms and conditions of any netting or setoff provisions between Customer and Wells Fargo governing the Account(s) and any linked accounts.

3. **Authorizations.** All transactions on Customer's Card Program are subject to prior approval by Wells Fargo (**"Authorizations"**). Wells Fargo reserves the right to limit the number of Authorizations given during any period of time (day, weekend, week, etc.) and Wells Fargo may deny an Authorization if Wells Fargo suspects that the Card is being used without Customer's permission. In the event the Authorization system is temporarily unavailable, an Authorization may be unable to be given even though the transaction would not exceed the Credit Limit and the Card is in good standing. For security reasons, Wells Fargo cannot explain the details of how the authorization system works. Wells Fargo shall not be liable for failing to give any such

Authorization. Wells Fargo may, but is not required to, authorize transactions that will cause the balance on the Card to exceed the Credit Limit, and Customer agrees it is liable for any such transactions. In addition, Wells Fargo reserves the right to deny transactions or authorizations from merchants apparently engaging in the Internet gambling business or identifying themselves through the Card transaction record or otherwise as engaged in such business.

Notwithstanding the foregoing, Customer acknowledges and agrees that: (i) some or all of the Cards issued hereunder may be Cards that contain an embedded security microchip that works in tandem with personal identification number (PIN) authentication functionality (**"PIN & Chip Cards"**), rather than traditional magnetic stripe Cards; (ii) certain PIN & Chip Card transactions are authorized via Offline Authorization rather than Online Authorization; (iii) as a result, such PIN & Chip Card transactions authorized via Offline Authorization are not verified against restrictions applicable to the Customer's Card program generally or to a specific Card and/or Cardholder (such as credit limits, transaction type restrictions, etc.) prior to authorization; and (iv) Customer's liability and responsibility for PIN & Chip Card transactions shall not be in any way diminished or otherwise affected by whether such transactions have been authorized via Online Authorization or Offline Authorization. For purposes of the foregoing: (a) **"Online Authorization"** means authorization of a Card transaction via the electronic communications authorization system utilized for traditional magnetic stripe Card transactions, in which transaction information with respect to each Card transaction is electronically communicated to the Card issuer (i.e. Wells Fargo) for authorization; and (b) **"Offline Authorization"** means authorization of a PIN & Chip Card transaction by communication between the PIN & Chip Card and payment terminal using defined limiting parameters stored on the PIN & Chip Card, such as a cumulative offline transaction amount limit or a consecutive offline transaction limit, but without electronic communication with and authorization by the Card issuer (i.e. Wells Fargo) as would occur with an Online Authorization.

4. **Program Administrator.** Wells Fargo will require, and is authorized to rely on, written instructions it receives from the Customer's Program Administrator(s) named on Attachment B with regard to the following matters, without limitation: issuance of individual Cards to Cardholders; establishment of and changes to credit limits on individual Cards; notification of disputed transactions; and termination of individual Cards. Customer may substitute, remove or designate additional Program Administrators by written notice to Wells Fargo signed by an authorized officer of Customer. Notwithstanding any other provision of this Card Agreement to the contrary, if Customer enrolls to administer its *WellsOne* Commercial Card program using the Internet to access Card information, Customer agrees that the primary Program Administrator named on Attachment B has full authority to substitute, remove or designate additional Program Administrators, each of whom may have the full authority of a Program Administrator including authority to designate other Program Administrators, and that written notice signed by an authorized officer of Customer is required only to substitute the primary Program Administrator. The primary Program Administrator may designate in writing one or more contacts for fraud or potential fraud related matters concerning Customer's Card program (**"Fraud Contact(s)"**), and in the absence of such designation the primary Program Administrator shall be deemed to be Customer's sole Fraud Contact. Customer may, but is not required to, execute additional Attachment Bs appointing separate program administrators for divisional or affiliate Card programs established under this Card Agreement.

5. **Liability for Unauthorized Use.** Customer shall be liable for all unauthorized use of the Card in any amount at any time, unless and until Customer has notified Wells Fargo that the Card or Card number has been lost, stolen or misappropriated or that the person or vehicle (in the event of a fleet program) in whose name the Card has been issued is no longer authorized to use the Card (for example, upon termination of employment). Notification concerning unauthorized use shall be made by Customer calling the customer service number most recently provided by Wells Fargo; provided however, that Customer shall cooperate with Wells Fargo to complete any required written correspondence requested by Wells Fargo. Customer shall be responsible for full payment of all purchases, fees and charges incurred prior to such notification, regardless of when actually posted to Customer's account.

6. **Visa Liability Waiver Program.** Subject to applicable Visa® terms and conditions, Customer may be eligible for coverage under Visa's® Liability Waiver Program which provides coverage against employee misuse of the Card. Customer should consult the Visa® Liability Waiver Program brochure available upon request from Wells Fargo for terms and conditions of coverage. Customer acknowledges that Wells Fargo is not responsible for providing any form of liability protection program on Customer's behalf and that Wells Fargo makes no representations or warranties regarding any such program that may be offered by third parties.

7. **Department Cards.** In the event Customer requests Wells Fargo to issue Cards to Customer in a department, group name or other such designation not bearing a name or signature of an authorized employee or individual, all such Cards shall be deemed as "Department Cards". Customer hereby represents, acknowledges and agrees that: (i) such Department Cards will be used by more than one authorized employee or individual; (ii) physical Cards may or may not be issued in conjunction with such Department Cards; and (iii) issuance of Department Cards may increase the risk of fraudulent or unauthorized use. As such, Customer is responsible for all security and protection of the Department Cards and any and all Customer procedures concerning the use of such Department Cards by its Cardholders.

8. **Billing Disputes, Chargeback Requests.** Customer may dispute amounts reflected on a billing statement that Customer reasonably believes to be incorrect because (i) the amount shown on the billing statement does not reflect the actual face value of the transaction, (ii) the transaction shown on the billing statement did not result from the use of the Cards, (iii) the statement reflects fees not properly accrued under this Card Agreement, or (iv) the transaction is disputable with the honoring merchant under applicable Visa® rules, however, such dispute is subject to the procedures and liability provisions set forth in this section or other sections of the Card Agreement. In the event of a dispute, Customer must notify Wells Fargo of its dispute within sixty (60) days from the transaction date of purchase. Each request to Wells Fargo must be in writing and contain the following information: (i) Cardholder name; (ii) Card account number; (iii) the dollar amount of any billing dispute or suspected error; (iv) reason for the dispute; and (v) a summary of the steps already taken with the merchant to resolve the matter. Wells Fargo shall investigate the disputed amount and determine whether the amount is properly payable by Customer. Until Wells Fargo completes its investigation and determines whether the disputed amount is properly payable by Customer, Customer shall not be liable for the amount of the disputed transaction. Customer agrees that its failure to dispute a charge or other item within sixty (60) days from the transaction date of purchase shall constitute a waiver of any right the Customer may have to dispute the charge. In the event that transactions are posted to the accounts as a result of any circumstance under which the honoring merchant may be held liable under applicable Visa® rules, Wells Fargo shall attempt to charge the transaction back to the merchant in accordance with Visa® procedures. However, such attempted chargeback by Wells Fargo shall not relieve Customer of liability for the amount of the transaction even though the transaction may have been provisionally credited to the Customer's accounts.

9. **Default.** The occurrence of any of the following conditions or events shall constitute an **"Event of Default"** by Customer under this Card Agreement in which case, any unpaid balances on the Card shall become immediately due and payable, and Wells Fargo may immediately debit the Account(s) for payment of such balances:

(a) Failure by Customer to timely pay any payment obligations hereunder on the date on which such is due and payable;
(b) Failure by Customer to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement for a period of thirty (30) days after written notice, except to the extent some other grace period shall be provided in regard to a covenant, specifying such failure and requesting that it be remedied, is given to Customer by Wells Fargo, unless Wells Fargo shall agree in writing to an extension of such time prior to its expiration;
(c) Any warranty, representation or other statement by Customer or by an officer or agent of Customer contained in this Agreement or in any instrument furnished in compliance with or reference to the Agreement (including the Card Agreement) is false or misleading in any material adverse respect;
(d) A petition is filed against Customer under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and an order for relief is entered or such petition is not dismissed within sixty (60) days of such filing;
(e) Customer files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect or consents to the filing of any petition against it under such law;
(f) Customer admits insolvency or bankruptcy of its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including without limitation a receiver, liquidator or trustee) of Customer or any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than sixty (60) days; or
(g) Failure by Customer to comply with Section 1 regarding the permitted uses of the Card and Section 20 (verification of identity) of the Card Agreement.

In addition to its rights to terminate, Wells Fargo may sue to protect and enforce any and all rights, including the right to the appointment of a receiver, existing under the laws of the State of Florida of the United States of America, or granted and contained in the Card Agreement, and to enforce and compel the performance by Customer or by any officer thereof, and take all steps to enforce the Agreement (including the Card Agreement) to the full extent permitted or authorized by the laws of the State of Florida or the United States of America.

10. **Term; Right to Terminate.** Wells Fargo may (i) terminate this Card Agreement, (ii) terminate one or more services provided for in this Card Agreement, or (iii) terminate one or more Cards by notice to Customer upon the occurrence of an Event of Default. If Customer has enrolled in CCER, any such notice required under this Card Agreement may be delivered to Customer electronically in the same manner that statements are delivered. Wells Fargo will deliver such notification pursuant to Article 6 of the Agreement. In the event of termination ,or upon the expiration of Contract 821, (i) all Cards shall automatically expire, (ii) Customer shall immediately, upon notice from Wells Fargo, destroy all Cards, (iii) Customer will continue to be responsible for full payment of the current balance on the Card and all purchases, fees and charges incurred before termination that post after termination, including, without limitation, recurring transactions that post after termination, and (iv) any unpaid balances on the Cards shall become immediately due and payable, and Wells Fargo may immediately debit the Account(s) for payment of such

balances. If Wells Fargo terminates one or more Cards but not the Card Agreement, Customer shall immediately, upon notice from Wells Fargo, destroy all such Cards. Upon termination of the Card Agreement, Customer acknowledges and agrees that the Account(s) and any and all collateral or guarantees in support of this Card Agreement will remain in place for a period of sixty (60) days from the termination date to satisfy all payment obligations of Customer under this Card Agreement. Customer may, at any time, terminate the authority of any Cardholder to use the Card. Such termination by Customer shall become effective upon written or electronic notice via the internet to Wells Fargo along with written confirmation that the Cardholder's Card has been destroyed.

11. **Liability of Wells Fargo.** Wells Fargo's liability hereunder shall be as described in Article 26 of the Agreement. In addition, Wells Fargo shall not be liable for any other matters whatsoever, including, without limitation: (i) Customer's use of the Card, (ii) the inability of Customer to use the Card or the unavailability of Card reports or authorizations as a result of circumstances beyond Wells Fargo's control (such as, without limitation, fire, flood or the disruption of power, phone or computer service), or (iii) transmission errors or data security problems, or other acts or omissions, on the part of third parties (including, without limitation, third-party service providers in connection with transaction files sent to Customer or its designee). Notwithstanding the foregoing, in no event shall Wells Fargo be liable for any indirect, incidental, special, consequential or punitive damages, even if Wells Fargo has been advised of the possibility of any such damages.

12. **Changes to Credit Limit; Other Changes.** In addition to, and not in lieu of, Wells Fargo's termination rights in Section Ten (10) above, Wells Fargo may unilaterally, in its sole discretion, change the Credit Limit for any reason, including but not limited to changes as may be required by law, upon prompt notice to Customer. Customer may change the designated Program Administrator(s) or an Account number upon an authorized officer's notice in writing or via the Internet to Wells Fargo.

13. **Foreign Currency Transactions.** If a Card is used to engage in a transaction in a currency other than U.S. dollars (**"Foreign Currency Transaction"**), that amount will be converted into U.S. dollars before posting to Customer's account.

13.1 **Foreign Currency Transaction Procedures:** If a Foreign Currency Transaction occurs, and the transaction is not converted to U.S. dollars by the merchant itself, Visa® will convert the transaction into a U.S. dollar amount by using its currency conversion procedure in effect at the time the transaction is processed. Currently, Visa regulations and procedures provide that the currency conversion rate they use is either (1) a wholesale market rate, which rate may vary from the rate Visa® itself receives or (2) a government-mandated rate for the applicable currency as determined under Visa® regulations and procedures, as applicable. This rate may differ from the rate in effect when the transaction occurred or when it was posted to the Cardholder's account.

13.2 **Point of Sale Currency Conversion:** Some merchants outside of the United States offer Cardholders the option of having card transactions converted to U.S. dollars by the merchant itself during the transaction (**"Point of Sale Currency Conversion"**). If that option is chosen the transaction is actually originated in U.S. dollars and the currency conversion rate is determined solely by the merchant.

13.3 **Cross Border Transactional Fee.** For each Foreign Currency Transaction that has been converted into a U.S. dollar amount by Visa®, and for each Point of Sale Currency Conversion transaction where a non-U.S. merchant originates a transaction in U.S. dollars, Wells Fargo will charge Customer a 1% fee (**"Cross Border Transactional Fee"**).

14. **Reserved.**

15. **Financial Information.** Promptly upon Wells Fargo's request, Customer shall provide, in form and detail satisfactory to Wells Fargo, current audited annual financial statements and supporting footnotes and schedules.

16. **Confidential and Proprietary Information.**

(a). Customer and Wells Fargo acknowledge and agree that, in connection with this Card Agreement, it may be necessary and/or desirable to exchange Confidential Information (as defined below). For purposes hereof, **"Confidential Information"** means all non-public, confidential or proprietary information of a party that is disclosed by such party (including any of its Representatives (as defined below)) (the **"Disclosing Party"**) to the other party (the **"Receiving Party"**) under or in connection with this Card Agreement, and includes, without limitation, financial, technical, or business information relating to the Disclosing Party, including trade secrets, marketing or business plans, strategies, forecasts, budgets, projections and pricing, customer and supplier information. Notwithstanding the above, Confidential Information does not include information that: (i) is or becomes generally available to the public other than as a result of an unauthorized disclosure by the Receiving Party or its Representatives (as defined below) in violation of this Section Sixteen (16); (ii) is already known by the Receiving Party at the time of its disclosure by the Disclosing Party; (iii) is or becomes available to the Receiving Party from a source not known to the Receiving Party to be under an obligation of confidentiality to the Disclosing Party; or (iv) is independently developed by the Receiving Party without the use of Confidential Information.

(b). For a period of two (2) years following its disclosure to the Receiving Party, the Receiving Party will: (i) keep Confidential Information confidential and not disclose it to any other person or entity, except disclosures (A) to federal and state bank examiners, and other regulatory officials having jurisdiction over the Receiving Party, as applicable, (B) to the Receiving Party's Representatives (as defined below), (C) in the case of Wells Fargo, to i) Visa®, and ii) third party payment industry service providers with whom Wells Fargo has a business relationship and has entered into a non-disclosure agreement covering such Confidential Information, (D) required by applicable law or legal process in the opinion of the Receiving Party's counsel or any of its Representative's counsel, as applicable, or (E) otherwise authorized in writing by the Disclosing Party; and (ii) use Confidential Information only in connection with this Card Agreement (including the evaluation, negotiation, implementation, administration and enforcement hereof). For purposes hereof, "**Representatives**" means a party's or any of its affiliates' officers, employees, agents, legal counsel, auditors or other professional advisors who need to know Confidential Information in connection with this Card Agreement (including the evaluation, negotiation, implementation, administration and enforcement hereof). The Receiving Party will be responsible for any failure of its Representatives to treat the Confidential Information as confidential in accordance with the terms and conditions of this Card Agreement. In the event that the Receiving Party or any of its Representatives is, in the opinion of its counsel, required by applicable law or legal process to disclose any Confidential Information under clause (i)(D) of the first sentence of this paragraph, then the Receiving Party, unless prohibited by law, will provide notice of such disclosure to the Disclosing Party so that the Disclosing Party, at its sole option (but without an obligation to do so) and at its sole expense, may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Section Sixteen (16).

(c). Following any termination of this Card Agreement, upon the Disclosing Party's request, the Receiving Party will use commercially reasonable efforts to destroy all copies of Confidential Information then in the possession of the Receiving Party; provided, however, that the Receiving Party may retain such copies as are required by applicable law or in accordance with its customary practices and procedures (any Confidential Information so retained will be held by the Receiving Party subject to this Card Agreement).

(d). If there is a breach of this Section Sixteen (16) by either party, the other party will have the right to seek any and all remedies at law or in equity, including without limitation appropriate injunctive relief or specific performance. The protections afforded to Confidential Information hereunder are in addition to, and not in lieu of, the protections afforded under any applicable trade secrets or other laws.

17. **No Waiver.** Neither party's failure to exercise any right or to pursue any remedy under this Card Agreement or otherwise shall constitute a waiver thereof.

18. **Waiver of Jury Trial.** EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY "DISPUTE". FOR PURPOSES HEREOF, "DISPUTE" MEANS ANY ACTION, DISPUTE, CLAIM, CONTROVERSY OR PROCEEDING OF ANY KIND, LEGAL OR EQUITABLE, WHETHER BASED IN CONTRACT, TORT, STATUTORY, COMMON LAW OR OTHER THEORY, NOW EXISTING OR HEREAFTER ARISING, THAT DIRECTLY OR INDIRECTLY ARISES OUT OF OR RELATES TO THIS AGREEMENT OR ANY PAST, PRESENT OR FUTURE ACTIVITIES, TRANSACTIONS OR OBLIGATIONS HEREUNDER OR CONTEMPLATED HEREBY, INCLUDING, WITHOUT LIMITATION, ANY OF THE FOREGOING ARISING IN CONNECTION WITH THE EXERCISE OF ANY SELF-HELP OR ANY ANCILLARY OR OTHER REMEDIES. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY EACH PARTY AND EACH PARTY HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY THE OTHER PARTY OR ANY OTHER PERSON OR ENTITY TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS SECTION NINETEEN (19) IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT. EACH PARTY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION NINETEEN (19) IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF TRIAL BY JURY. EACH PARTY FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE EXECUTION OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER OF TRIAL BY JURY BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER OF TRIAL BY JURY WITH SUCH COUNSEL.

19. **No Assignment.** Customer may not assign this Card Agreement or any of its rights, interest or obligations hereunder (by operation of law or otherwise).

20. **Reserved.**

21. **Verification of Identity.** Customer acknowledges that Wells Fargo may be required by applicable law, including Executive Order 13224 (or successor orders/legislation), to screen the names of individual Cardholders against the Specially Designated Nationals and Blocked Persons list published by the Office of Foreign Assets Control of the U.S. Department of the Treasury, or otherwise verify such person's identity. Customer agrees to cooperate with Wells Fargo in this regard and to provide

to Wells Fargo personally identifiable information about any Cardholder, upon Wells Fargo's request. In the event that Customer does not comply with the terms of this section, Wells Fargo will have the right, in its sole and absolute discretion, to terminate immediately any Card issued in the name of such individual(s), and Customer shall not permit such individual(s) to use any other Cards issued pursuant to this Card Agreement.

WELLSONE® COMMERCIAL CARD AGREEMENT
ATTACHMENT A - 1
PROGRAM INFORMATION

CUSTOMER NAME	MIAMI-DADE COUNTY
TAX ID	59-6000573
ADDRESS	111 NW 1ST ST, STE 2620 MIAMI, FL 33128-1933
CREDIT LIMIT	$
ACCOUNT(S)	

Billing Settlement Account:	**For purchases and transactions on the Card, Cash Advance Fees, and Cross-Border Transactional Fees**
BANK NAME	WELLS FARGO
DEMAND DEPOSIT ACCOUNT NUMBER	
ROUTING NUMBER	
BILLING STATEMENT CYCLE*	Monthly

*Applies to purchases and transactions on the Card, Cash Advance Fees, and Cross-Border Transactional Fees. Other fees hereunder will be billed separately on a monthly basis.

Fee/Analysis Account:	**For other fees under this Card Agreement, as amended and supplemented from time to time (including other fees specified in Attachment C-1)****
BANK NAME	WELLS FARGO
DEMAND DEPOSIT ACCOUNT NUMBER	
ROUTING NUMBER	

** If no account specified, same as Billing Settlement Account

WELLSONE® COMMERCIAL CARD AGREEMENT
ATTACHMENT A-2, MULTIPLE DIVISON BILLING
PROGRAM INFORMATION

CUSTOMER NAME	MIAMI-DADE COUNTY
ACCOUNT(S)	

_____ Division	**For purchases and transactions on the Card, Cash Advance Fees, and Cross-Border Transactional Fees for the _____ Division Card Program**
BANK NAME	WELLS FARGO
DEMAND DEPOSIT ACCOUNT NUMBER	

ROUTING NUMBER

_____ Division	**For purchases and transactions on the Card, Cash Advance Fees, and Cross-Border Transactional Fees for the _____ Division Card Program**
BANK NAME DEMAND DEPOSIT ACCOUNT NUMBER ROUTING NUMBER	WELLS FARGO

_____ Division	**For purchases and transactions on the Card, Cash Advance Fees, and Cross-Border Transactional Fees for the _____ Division Card Program**
BANK NAME DEMAND DEPOSIT ACCOUNT NUMBER ROUTING NUMBER	WELLS FARGO

_____ Division	**For purchases and transactions on the Card, Cash Advance Fees, and Cross-Border Transactional Fees for the _____ Division Card Program**
BANK NAME DEMAND DEPOSIT ACCOUNT NUMBER ROUTING NUMBER	WELLS FARGO

WELLSONE® COMMERCIAL CARD AGREEMENT
ATTACHMENT B - PROGRAM ADMINISTRATOR

Please provide the following information about each Program Administrator:

MIAMI-DADE COUNTY

Customer Name

Enter Division Name, if applicable

*The Attachment B to the Card Agreement may be updated at a later date, however it will replace the original Attachment B and all current Program Administrators of Customer must be included.

PROGRAM ADMINISTRATOR (*Primary*)
Main point of contact for day to day business

(Name / Title)

(Mailing Address)

(City / State / Zip Code)

(Telephone) (Fax)

(Email Address)

PROGRAM ADMINISTRATOR (*Secondary*)

(Name / Title)

(Mailing Address)

(City / State / Zip Code)

(Telephone) (Fax)

(Email Address)

PROGRAM ADMINISTRATOR (*Secondary*)

(Name / Title)

(Mailing Address)

(City / State / Zip Code)

(Telephone) (Fax)

(Email Address)

PROGRAM ADMINISTRATOR (*Secondary*)

(Name / Title)

(Mailing Address)

(City / State / Zip Code)

(Telephone) (Fax)

(Email Address)

(add additional pages as necessary)

Select the Program Administrator above designated to receive all *WellsOne* Commercial Card Visa® Cards*: _____
*Card delivery must be a physical address

Select the Program Administrator above designated to receive billing statements: _____

Schedule 1

WELLS FARGO SUPPLIER ANALYSIS & ONBOARDING COMMERCIAL CARD CONVERSION SERVICE

This Wells Fargo Supplier Analysis & Onboarding Service Agreement (this "SAO Agreement") is made and entered into effective as of (the "Effective Date"), by and between Wells Fargo Bank, N.A. ("Wells Fargo") and Miami-Dade County ("Customer"). In exchange for the mutual promises and agreements hereinafter set forth, and for other good and valuable consideration, and intending to be legally bound hereby, Customer and Wells Fargo hereby agree as follows:

1. Incorporation and Effect. If Wells Fargo and Customer have entered into or, after the Effective Date set forth above, enter into a WellsOne® Commercial Card Agreement governing Customer's Commercial Card Program (a "Card Agreement"), this Agreement shall be deemed to be a part of, and incorporated into, such Card Agreement as though fully set forth therein. With respect to the service described herein, in the event of a conflict between any provision of this Agreement and any provision of the Card Agreement, the provision of this SAO Agreement shall control.

2. Definitions. The following terms shall have the following defined meanings:

"Card" shall mean the WellsOne® Commercial Card.

"Boost" shall mean Boost Payment Solutions, LLC.

3. Supplier Analysis & OnBoarding Service. The Supplier Analysis and OnBoarding Service (the "Service") provides WellsOne® Commercial Card customers with detailed supplier segmentation information leveraging both industry validated acceptance data and Wells Fargo's proprietary program data. The Service will provide Customer with targeted reporting and other tools to help effectively migrate Customer's suppliers from check to Card payments. With delivery of a specifically formatted accounts payable file from Customer to Wells Fargo, Wells Fargo will complete a thorough analysis against its proprietary database to determine card acceptance status and deliver targeted segmentation recommendations to assist in strategies to help maximize Card usage. In addition, this Service will provide Customer with the necessary tools to help convert its suppliers from check to Cards and provide Customer with communication updates on new or existing suppliers that accept the Card. Further, Wells Fargo's Supplier Enrollment Team and/or Boost, as applicable, will contact Customer's mutually-agreed upon target list of suppliers on its behalf to help enroll those suppliers in acceptance of the Card from Customer.

4. Scope of Services. The Service will be comprised of the following:

- Supplier Segment Consultation. The Supplier Segmentation Consultation shall consist of, but not be limited to the following: (i) developing a supplier segmentation plan, (ii) defining a strategy to target suppliers to identify both near and long-term targets for conversion to Card, and (iii) implementing Customer's supplier segmentation plan.

- Wells Fargo Supplier Enrollment Team Outreach. Wells Fargo's Supplier Enrollment Team may communicate to Customer's suppliers ("Third Party(ies)") on Customer's behalf via telephone or direct mail communication in order to request that such Third Parties accept Cards from Customer as a form of payment. Wells Fargo's Supplier Enrollment Team's calling or direct mail campaign shall be for Card acceptance purposes only and not for any other purpose, including but not limited to, solicitation of Wells Fargo products and/or services. The Wells Fargo Supplier Enrollment Team will communicate only with those Third Parties identified by Customer for such purpose, and Customer may contact those or any other Third Parties at its own discretion.
- Boost Outreach. Wells Fargo may engage the services of Boost in order that Boost attempt to contact Third Parties who do not currently accept any commercial card payments and attempt to migrate such Third Parties to Card use. Customer understands and agrees that Wells Fargo shall

provide Boost with the names of and certain other information, such as Customer's spend volume, concerning Third Parties. Customer authorizes Boost to contact such Third Parties for the purpose specified herein. Neither Wells nor Boost is making any guaranty that any such Third Party will accept the Card as a form of payment. In no event shall Wells Fargo be responsible for the actions of Boost.

5. E-mail Notification. Customer hereby authorizes and consents to Wells Fargo sending notifications to Customer via e-mail, as it relates to this SAO Agreement. Customer also agrees to notify Wells Fargo of any changes to Customer's e-mail address during the term of this SAO Agreement.

6. Consent & Authorization to Release Customer Information. By executing this SAO Agreement, Customer hereby requests and authorizes Wells Fargo and/or Boost, as applicable, to communicate to prospective Third Parties, Customer's name and monthly spend volume ("Customer Information") with such Third Party. The Customer Information will be shared with Third Parties at Customer's request to explore potential acceptance of the Cards as a form of payment.

7. Privacy. Wells Fargo is dedicated to maintaining the privacy of its Customer Information. Customer acknowledges and understands that the above-referenced Consent and Authorization to Release Customer Information Section is voluntary and may be revoked by Customer at anytime upon written notice to Wells Fargo.

Customer to provide the following contact information:

Primary Contact: _____

Address (Corporate Headquarters): _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____

Email Address: _____

Tax Identification Number: _____

Schedule 2

CCER AP CONTROL SERVICE DESCRIPTION

WELLS FARGO

1. **Introduction.** This CCER AP Control Service Description (this **"Service Description"**) is hereby made a part of, and incorporated into, the WellsOne® Commercial Card Agreement (the **"Card Agreement"**) governing the Wells Fargo Bank, N.A. (**"Wells Fargo"**) and Customer, as defined in the Agreement, Commercial Card Program and CCER AP Control Services (each, a "**Service**"). By receiving this Service Description, Customer has requested that Wells Fargo provide Customer with the ability to utilize CCER AP Control within the Commercial Card Expense Reporting System (**"CCER"**) system, to the extent such functionality is available and approved for Customer.

2. **Definitions.** Capitalized terms herein that are not otherwise specifically defined herein shall have the same meanings as set forth in the Card Agreement. The following definitions shall have the following described meanings:

   "CAN" ***means a single-use account number that is assigned to each payment that is transmitted and processed by Customer through CCER AP Control used in a card-not-present transaction.***

   "Card" means individually and collectively, all WellsOne® Commercial Cards and account numbers issued to Customer, Cardholders and all single-use account numbers and CANS.

3. **Description of Services.**

   3.1 **Commercial Card Expense Reporting AP Control.** The Commercial Card Expense Reporting AP Control ("CCER AP Control") Service provides proprietary single-use accounts to Wells Fargo Commercial Card Customers for business-to-business transactions delivered through the Commercial Card Expense Reporting system ("CCER") to Customer's merchants.

   (a) CCER AP Control collects, transforms, and routes commercial payment instruction orders by allowing Customer to send invoice-based payment instructions to Wells Fargo via a batch process for settlement to its WellsOne® Commercial Card program. CCER AP Control accepts files from *Wells Fargo's Payment Manager® service* or direct file upload containing commercial card-based payment instructions and assigns a single-use Control Account Number (**"CAN"** as defined above) per payment, and sends the CAN with the transaction details to the appropriate merchant via secure e-mail. In addition, an electronic remittance detail file is then provided to Customer to facilitate closing out such payments within Customer's back-end applications.

   (b) Customer may access payment status information directly within the workflow queues provided within CCER AP Control. Such information may be utilized by Customer to manage certain actions within its accounts payable area.

(c) Use of CCER AP Control shall allow Customer the ability to set up authorization parameters prior to Customer transactions and process and pay invoices using Customer's Card. Such parameters shall consist of but not be limited to the following: (i) a date range that the CAN is valid, (ii) MCC code or range, and/or (iii) payment amount.

4. **Payment File Transmission.** Customer will prepare each payment file and deliver it to Wells Fargo in accordance with the guidelines Wells Fargo separately makes available to Customer. Customer may deliver payment files to Wells Fargo, and Wells Fargo will acknowledge receipt of payment files, twenty-four hours a day, and seven days a week.

5. **Payment File Processing.** Wells Fargo will process Payment files and make payments in a twenty-four hour a day, seven days a week environment. However, and notwithstanding the aforementioned, such processing may be delayed as a result of periodic production outages resulting from implementation of system changes.

6. **Payment File Validation.** Wells Fargo will inspect each payment file received to confirm its format conforms to the requirements in the Customer User Guide. Wells Fargo's inspection will not detect erroneous or missing information or unauthorized payments.

7. **Incomplete, Rejected Payment Files.** If a payment file is missing a required data field for a payment described in it or if Wells Fargo has identified other errors that make it unable to process the file, Wells Fargo may, without liability to Customer, reject the entire payment file.

8. **Remittance Documents.** A remittance information document is available to Customer's designated suppliers via secure document delivery. Wells Fargo will not confirm receipt of or be liable for corruption or loss of data in a remittance information document after Wells Fargo makes it available.

9. **Survival.** Sections 6, 7, 8, and 9 of this Service Description will survive the termination of Services.